



**FOLEY
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ATTORNEYS AT LAW

August 17, 2004

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Via Mail and Electronic Filing

The Honorable William G. Young, Chief Judge
c/o Tony Anastas, Clerk of the Court
United States District Court for the District of Massachusetts
John Joseph Moakley U.S. Courthouse
1 Courthouse Way
Boston, MA 02210

Re: Iwata v. Intel Corp. et al., C.A. No. 04-10536

Dear Judge Young:

I represent the Defendants in the above-referenced matter. I write in regards to Plaintiff's Response to Defendants' Supplemental Memorandum In Support of Motion to Dismiss ("Response"), filed with the Court on August 13, 2004. While Defendants did receive a copy of that document, they did not receive a copy of any motion for leave to file this additional brief with the Court.

Had Defendants been served with such a motion, they would have opposed it, as the Court did not provide for the filing of any reply memoranda. The Court ordered the parties to simultaneously file supplemental briefs relating to Defendants' motion to dismiss and to focus their arguments on the legislative history of the Americans With Disabilities Act. The Court did not provide for any additional briefing.


Further, it is unfair that Ms. Iwata have an opportunity to respond to Defendants' arguments when no such opportunity was afforded to Defendants. For whatever reason, Ms. Iwata elected to not address the legislative history in her filing, despite the Court's instructions. While her Response apparently is intended to explain that failure, that does not necessitate the filing of an additional brief. It should have been no surprise to Ms. Iwata that Defendants would focus in their brief on the issue of legislative history. Having chosen to ignore the issue, she is not now entitled to file an additional brief, particularly after having received Defendants' supplemental brief.

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For these reasons, Defendants respectfully request that the Court disregard Plaintiff's Response.

Very truly yours,


Michele A. Whitham

cc: Philip R. Olenick, Esq. (by mail)
Paul L. Nevins, Esq. (by mail)